

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Julian Phillips	Team: Squad #5	CCRB Case #: 201901565	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/23/2015 4:45 AM	Location of Incident: [REDACTED]	Precinct: 10	18 Mo. SOL 3/23/2017	EO SOL 3/23/2017	
Date/Time CV Reported Tue, 02/19/2019 11:59 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 02/19/2019 11:59 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. An officer			010 PCT
2. POM Peter Marter	18790	927136	010 PCT
3. SGT Ramon Guillen	01832	931707	TB ATU

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Daniel Dongvort	03129	951687	ESS 09
2. DT3 Timothy Finn	03078	951733	DB FCTF
3. POM Sinan Cagirici	18239	939959	POL LAB

Officer(s)	Allegation	Investigator Recommendation
A.POM Peter Marter	Abuse: In the vicinity of § 87(2)(b) in Manhattan, Police Officer Peter Marter stopped § 87(2)(b)	[REDACTED]
B.POM Peter Marter	Abuse: In the vicinity of § 87(2)(b) in Manhattan, Police Officer Peter Marter threatened to arrest § 87(2)(b)	[REDACTED]
C.POM Peter Marter	Force: In the vicinity of § 87(2)(b) in Manhattan, Police Officer Peter Marter used physical force against § 87(2)(b)	[REDACTED]
D.POM Peter Marter	Off. Language: In the vicinity of § 87(2)(b) in Manhattan, Police Officer Peter Marter made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	[REDACTED]
E. An officer	Abuse: An officer interfered with individuals' use of a recording device.	[REDACTED]
F.SGT Ramon Guillen	Force: In the vicinity of § 87(2)(b) in Manhattan, Sergeant Ramon Guillen used a Taser against § 87(2)(b)	[REDACTED]
G.SGT Ramon Guillen	Force: In the vicinity of § 87(2)(b) in Manhattan, Sergeant Ramon Guillen used a Taser against § 87(2)(b)	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
H.SGT Ramon Guillen	Abuse: In the vicinity of § 87(2)(b) in Manhattan, Sergeant Ramon Guillen threatened § 87(2)(b) with the use of force.	
I.POM Peter Marter	Discourtesy: Inside a police vehicle in Manhattan, Police Officer Peter Marter spoke discourteously to § 87(2)(b)	
J.POM Peter Marter	Off. Language: Inside a police vehicle in Manhattan, Police Officer Peter Marter made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	

### Case Summary

On February 19, 2019, § 87(2)(b) filed this complaint on the CCRB website. § 87(2)(b) filed this complaint more than three years after the incident date.

On September 23, 2015, at approximately 4:45 a.m., in front of § 87(2)(b) § 87(2)(b) in Manhattan, Police Officer Peter Marter of the 10<sup>th</sup> Precinct allegedly stopped § 87(2)(b) and allegedly threatened to arrest her if she did not provide identification (**Allegations A-B: Abuse of Authority**, § 87(2)(g)). PO Marter was accompanied by Police Officer Timothy Finn, also of the 10<sup>th</sup> Precinct, and § 87(2)(b) was accompanied by two friends. After § 87(2)(b) refused to provide identification and to put her hands behind her back, PO Marter pulled her down to the ground, causing her to sustain injuries (**Allegation C: Force**, § 87(2)(g)). During the struggle, PO Marter allegedly called § 87(2)(b) a “bitch” (**Allegation D: Offensive Language**, § 87(2)(g)). Other officers arrived on the scene, including Sergeant Ramon Guillen and Police Officer Daniel Dongvort, both also of the 10<sup>th</sup> Precinct. An officer allegedly ordered bystanders to stop filming the incident (**Allegation E: Abuse of Authority**, § 87(2)(g)). Sgt. Guillen tasered § 87(2)(b) allegedly tasered her a second time, and allegedly threatened to taser her again (**Allegations F-G: Force**, § 87(2)(g); **Allegation H: Abuse of Authority**, § 87(2)(g)). PO Marter transported § 87(2)(b) to the 10<sup>th</sup> Precinct stationhouse and to Manhattan Central Bookings. Inside the police vehicle, PO Marter allegedly said to § 87(2)(b) “Another slut off the streets,” “You’re a fucking bitch,” and, “You’re a hoe” (**Allegation I: Discourtesy**, § 87(2)(g); **Allegation J: Offensive Language**, § 87(2)(g)).

§ 87(2)(b) was charged with § 87(2)(b), § 87(2)(a) CPL 160.50. The charges were ultimately dismissed.

The investigation obtained surveillance video footage capturing a portion of the incident (**Board Review 01**, summarized at **Board Review 15**). All references to video evidence below refer to the time stamp in the video player, not the on-screen clock embedded in the video itself.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: In the vicinity of § 87(2)(b) in Manhattan, Police Officer Peter Marter stopped § 87(2)(b)**

**Allegation (B) Abuse of Authority: In the vicinity of § 87(2)(b) in Manhattan, Police Officer Peter Marter threatened to arrest § 87(2)(b)**

**Allegation (C) Force: In the vicinity of § 87(2)(b) in Manhattan, Police Officer Peter Marter used physical force against § 87(2)(b)**

**Allegation (D) Offensive Language: In the vicinity of § 87(2)(b) in Manhattan, Police Officer Peter Marter made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)**

§ 87(2)(b) testified (**Board Review 02**) that she was eating pizza on the sidewalk with two friends named § 87(2)(b) and § 87(2)(b). PO Marter and PO Finn approached the group, and PO Marter engaged § 87(2)(b) in conversation. Based on the manner in which PO Marter looked at her, § 87(2)(b) assessed that PO Marter’s motivation for speaking to her was sexual in nature. § 87(2)(b) told PO Marter that she did not like the police. PO Marter asked § 87(2)(b) for identification, and § 87(2)(b) asked why she needed to provide identification. PO

Marter said, “Give me your ID or I’m arresting you.” § 87(2)(b) refused to provide identification, and she did not put her hands behind her back upon PO Marter’s command. PO Marter grabbed § 87(2)(b) and began struggling with her, causing her to fall to the ground and sustain a bloody nose. During the physical struggle, PO Marter called § 87(2)(b) a “bitch.”

At the time of her CCRB interview, § 87(2)(b) did not possess current contact information for § 87(2)(b) or § 87(2)(b) and she could not provide sufficient information about them for the investigation to independently locate them. § 87(2)(b) was uncooperative in providing additional information about § 87(2)(b) or § 87(2)(b). As a result, the investigation could not obtain any testimony from § 87(2)(b) and § 87(2)(b).

PO Marter retired from the NYPD on December 31, 2017 (**Board Review 16**). As a result, the investigation could not obtain testimony from him. PO Marter was § 87(2)(b)’s arresting officer. The arrest report states that § 87(2)(b) was “acting in a disorderly manner and clearly intoxicated,” that she refused to produce identification, and that she physically resisted being handcuffed (see Privileged Documents). § 87(2)(a) CPL 160.50, § 87(2)(g)

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§ 87(2)(b) (**Board Review 10**).

PO Finn testified (**Board Review 03**) that he did not recall why he and PO Marter approached § 87(2)(b). § 87(2)(b) did not recall if she was ever stopped, did not recall why she was arrested, and did not recall whether she was taken to the ground. Viewing the surveillance footage did not refresh PO Finn’s recollection. The investigation interviewed PO Finn more than four years after the date of the incident.

The investigation obtained surveillance footage from a nearby building which § 87(2)(b)’s criminal defense attorney originally obtained in relation to her criminal case (**Board Review 01**). The footage showed the beginning of the incident and the initial use of force against § 87(2)(b). The footage did not contain audio. At the 03:15 mark in the footage, PO Marter and PO Finn approach § 87(2)(b), § 87(2)(b) and § 87(2)(b). PO Marter speaks to § 87(2)(b) until the 05:50 mark, when he grabs her arms and holds her against a wall. PO Marter and PO Finn attempt to handcuff § 87(2)(b)’s arms behind her back until the 06:55 mark, when PO Marter grabs § 87(2)(b)’s hair and torso and pulls her backwards and downwards, causing her to fall to the ground. § 87(2)(b) falls out of the video frame, and any further use of force is not captured in the footage. The footage shows that PO Marter initiated and continued the interaction with § 87(2)(b) and therefore the stop allegation was pleaded solely against him.

§ 87(2)(g)  
§ 87(2)(g)

**Allegation (E) Abuse of Authority: An officer interfered with individuals' use of a recording device.**

§ 87(2)(b) testified that she struggled with PO Marter for approximately five minutes before four to five additional officers arrived. § 87(2)(b) heard people gathering at the scene and commenting on the incident. § 87(2)(b) heard an officer, whom she could not see or describe, say, “Put your phones away.”

The investigation identified twelve officers besides PO Marter and PO Finn who may have responded to this incident. Three of those officers subsequently left service or went on long-term leave, and seven did not prepare memo book entries indicating that they responded to the incident. Of the four officers determined to have responded to the scene who remained members of the NYPD at the time of the CCRB investigation, the investigation obtained statements from PO Finn, PO Dongvort (**Board Review 04**), and Sgt. Guillen (**Board Review 05**). All three of these officers testified that they did not recall any officer ordering bystanders to put their phones away.

§ 87(2)(g)

**Allegation (F) Force: In the vicinity of § 87(2)(b) in Manhattan, Sergeant Ramon Guillen used a Taser against § 87(2)(b)**

**Allegation (G) Force: In the vicinity of § 87(2)(b) in Manhattan, Sergeant Ramon Guillen used a Taser against § 87(2)(b)**

**Allegation (H) Abuse of Authority: In the vicinity of § 87(2)(b) in Manhattan, Sergeant Ramon Guillen threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) testified that she did not have a clear recollection of the physical struggle after she fell to the ground. In her initial telephone statement to the CCRB (**Board Review 06**), § 87(2)(b) reported that Sgt. Guillen tasered her three times: Once while she was struggling with officers on the ground, a second time while she was standing up, and a third time immediately before she entered a police van to be transported to the stationhouse. During her in-person interview at the CCRB, § 87(2)(b) testified that, while officers were struggling to handcuff her on the ground, Sgt. Guillen fired his Taser, its prongs became embedded in her thigh, and the Taser deployed a charge. § 87(2)(b) then stood up, and officers attempted to pull her hands behind her back to handcuff her. Sgt. Guillen fired his Taser a second time, its prongs again embedded in § 87(2)(b)'s thigh, and the Taser again deployed a charge. § 87(2)(b) asserted that four Taser prongs were ultimately removed from her thigh. Officers then handcuffed § 87(2)(b) and escorted her to a police van. § 87(2)(b) sat inside the van, and Sgt. Guillen held the Taser directly beside § 87(2)(b)'s thigh and caused it to spark, prompting § 87(2)(b) to move further into the van. Sgt. Guillen did not actually touch § 87(2)(b) with the Taser on the third occasion, and its “spark” did not deploy a charge into her.

PO Dongvort and PO Finn testified that, after being handcuffed, § 87(2)(b) refused to enter the police van. While the officers were attempting to escort § 87(2)(b) into the van, § 87(2)(b) kicked PO Dongvort in the chest. Around this time, Sgt. Guillen tasered § 87(2)(b). Neither

officer recalled Sgt. Guillen tasing § 87(2)(b) multiple times or Sgt. Guillen holding the device close to § 87(2)(b) and causing it to spark.

Sgt. Guillen testified that he had no memory of this incident. The investigation interviewed Sgt. Guillen more than four years after the date of the incident.

§ 87(2)(g)  
§ 87(2)(b) Sgt. Guillen had lost the relevant memo book at some point prior to his CCRB interview, and the 10<sup>th</sup> Precinct could not locate a Less Lethal/Rescue Equipment Use Report associated with the incident. The Medical Treatment of Prisoner Report prepared for § 87(2)(b) (Board Review 07), the Pre-Hospital Care Report Summary prepared when EMS personnel transported her to the hospital, and her medical records from § 87(2)(b) (see Privileged Documents) all indicated that a single Taser prong was removed from her thigh, with a second prong lodged in her shorts. A single Taser cartridge was vouchered with § 87(2)(b)'s arrest paperwork (Board Review 08). The Taser Data Sheet for Sgt. Guillen's Taser (Board Review 09) indicates that the device was activated twice, for two five-second cycles, at 4:53 a.m. and 5:00 a.m. on the incident date. § 87(2)(a) CPL 160.50, § 87(2)(g)

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Patrol Guide Procedure 212-117 ("Use of Conducted Energy Devices," effective August 1, 2013, and in use at the time of the incident) states that a Taser should only be used against persons who are actively physically resisting or exhibiting active physical aggression, or to prevent individuals from physically injuring themselves or others (Board Review 17).

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**Allegation (I) Discourtesy: Inside a police vehicle in Manhattan, Police Officer Peter Marter spoke discourteously to § 87(2)(b)**

**Allegation (J) Offensive Language: Inside a police vehicle in Manhattan, Police Officer Peter Marter made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)**

§ 87(2)(b) testified that PO Marter, PO Finn, and two officers whom she could not describe transported her from the scene of her arrest to the 10<sup>th</sup> Precinct stationhouse. During the drive to the stationhouse, PO Marter said to § 87(2)(b) “Another slut off the streets,” “You’re a fucking bitch,” and, “You’re a hoe.” PO Marter and PO Finn subsequently drove § 87(2)(b) from the 10<sup>th</sup> Precinct stationhouse to Manhattan Central Bookings, and during this drive PO Marter again said to § 87(2)(b) “A slut off the streets.”

PO Dongvort testified that he transported § 87(2)(b) from the scene of her arrest to the 10<sup>th</sup> Precinct stationhouse, but he did not recall PO Marter being in the vehicle or saying to § 87(2)(b) “Another slut off the streets,” “You’re a fucking bitch,” and, “You’re a hoe.”

PO Finn testified that he was not in the vehicle that transported § 87(2)(b) from the scene of her arrest to the 10<sup>th</sup> Precinct stationhouse, and he did not know of PO Marter being in the vehicle or saying to § 87(2)(b) “Another slut off the streets,” “You’re a fucking bitch,” and, “You’re a hoe.” PO Finn confirmed that he and PO Marter transported § 87(2)(b) to Manhattan Central Bookings, but he denied that PO Marter said to § 87(2)(b) during this drive, “A slut off the streets.”

§ 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first complaint to which § 87(2)(b) has been a party (**Board Review 11**).
- Sgt. Guillen has been a member of service for 17 years and has been a subject in six CCRB complaints and eight allegations, none of which was substantiated. § 87(2)(g)

#### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming false arrest, unlawful imprisonment, excessive force, and physical and emotional suffering (**Board Review 12**). § 87(2)(b) settled her case and received a \$90,000 payment (**Board Review 13**).
- According to the Office of Court Administration (OCA) § 87(2)(b) has no history of convictions in New York City (**Board Review 14**).

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Squad No.: 5

Investigator: DG IM Giansante for Inv. Phillips April 28, 2020  
Signature Print Title & Name Date

Squad Leader: *Daniel Giansante*      IM Daniel Giansante      April 28, 2020  
Signature      Print Title & Name      Date

Reviewer: \_\_\_\_\_  
Signature      Print Title & Name      Date